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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

|   |   |                                  |
|---|---|----------------------------------|
| MATTHEW R. LINDNER, individually; as                | ) | CASE NO.: 2:10-cv-00051-LDG-VCF  |
| surviving spouse and legal heir of ELSY LETICIA     | ) |                                  |
| GRANADOS-MARTINEZ, deceased; as surviving           | ) |                                  |
| parent and legal heir of CAMILA LYNETE              | ) | <b>PLAINTIFFS' RESPONSE TO</b>   |
| LINDNER, a deceased minor; and as Guardian Ad       | ) | <b>DEFENDANT'S DEPOSITION</b>    |
| Litem of PAULINA GRANADOS-MARTINEZ, a               | ) | <b>EXCERPTS OF DR. ROBERT D.</b> |
| minor; FERNANDO GRANADOS-MAGALLON,                  | ) | <b>BANKS</b>                     |
| individually and as surviving spouse and legal heir | ) |                                  |
| of REFUGIO LETICIA MARTINEZ COSIO,                  | ) |                                  |
|   | ) |                                  |
| Plaintiffs,   | ) |                                  |
|   | ) |                                  |

1 vs. )  
 2 )  
 3 FORD MOTOR COMPANY, a Delaware )  
 4 corporation; BERTHA MEZA d/b/a OROZCO )  
 5 AUTO SALES; EVENFLO COMPANY, INC., a )  
 6 Delaware corporation; BIG LOTS STORES, INC., )  
 7 an Ohio corporation; DOES I through XX, )  
 8 inclusive and ROE BUSINESS ENTITIES I )  
 9 through XX, inclusive, )  
 10 )  
 11 Defendants. )  
 12 )  
 13 )  
 14 )  
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 28 )

**PLAINTIFFS' RESPONSE TO DEFENDANT'S DEPOSITION EXCERPTS OF**  
**DR. ROBERT D. BANKS**

COME NOW, Plaintiffs, by and through their attorneys of record, BENSON & BINGHAM, and hereby file their response to Defendant's Deposition Excerpts of Dr. Robert D. Banks:

The purpose of expert reports and disclosures is to be highly detailed and complete. This includes the duty to disclose all tests and exhibits to be used as support for the experts' opinions. *Salgado by Salgado v. GMC*, 150 F.3d 735, 741 (7<sup>th</sup> Cir. 1998) (citing Robert Matthew Lovein, *A Practitioners Guide: Federal Rule of Civil Procedure 26(a) – Automatic Disclosure*, 47 Syracuse L. Rev. 225, 257-58 (1996)).

The Court has before it Dr. Banks' initial and supplemental reports. Nowhere in either does Dr. Banks set forth the opinion and basis for the assertion that Camila died as a result of blunt force trauma due to Elsy Lindner hitting her.

Additionally, when asked during his deposition as to what tests or studies he did Dr. Banks responded:

Q. Okay. And so you won't be coming to court saying that I know based on my work as an engineer and as a doctor looking at this evidence that the mother's weight applied against the car seat laterally was sufficient enough to – to – to cause the torque necessary to force this car set off of its base, correct?

*Banks Depo, 12:7-13*

Given the importance of this new opinion to the issues presented and the very likelihood of unfair prejudice, this new opinion should be kept out.

DATED this 16<sup>th</sup> day of October, 2015.

/s/ Joseph L. Benson II  
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Nevada Bar No. 7276  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **PLAINTIFFS' RESPONSE TO DEFENDANT'S DEPOSITION EXCERPTS OF DR. ROBERT D. BANKS** was made this date by electronic service to the following:

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DATED this 16<sup>th</sup> day of October, 2015.

/s/ Amy L. Sulanke  
An employee of BENSON & BINGHAM